

REMARKS

Applicants, through their Attorney, respectfully request the Examiner to reconsider and withdraw the rejection of the Claims for the reasons set forth below.

Applicants have amended the Abstract and have replaced it with a new Abstract as set forth in page 7 of this Amendment. Accordingly, the Abstract now sets forth in detail that which the invention pertains and thus, this objection should be withdrawn.

Claims 11, 22 and 23 are objected to because of informalities. Applicants have amended the informalities in Claims 11, 22 and 23 and accordingly, this objection should be withdrawn.

Claims 1 through 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended Claims 1, 4 through 8, 11 through 12 and 14 through 15 to properly recite the Markush group.

New Claim 27, similar to canceled claim 3 particularly points out and distinctly claims the subject matter of the gel comprising A + B + C components wherein each component is then further defined. Accordingly, new Claim 27 does not suggest but requires the three components.

Claims 6 through 9, 12 and 14 through 19 are rejected as being dependent from a rejected Claim 3. This rejection should be withdrawn in view of the amendment to the Claims.

Claim 9 has been amended so that it no longer recites the phrase, "of e.g." and thus, Claim 9 is definite.

Accordingly, the 35 U.S.C. 112, second paragraph rejection to Claims 1 through 19 should be obviated in view of the amendments to the Claims.

Claims 1 through 6 and 12 through 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace, USPN 5,944,858. The Examiner stated that Wallace discloses an additive composition comprising one or more fuel soluble manganese carbonyl compounds and one or more fuel soluble alkyl alkaline earth metals that reduce soot, smoke and carbonaceous products as well as inhibit the amount of noxious emissions formed when using fuel in an engine. Applicants respectfully

traverse.

Wallace discloses a fuel composition that comprises one or more fuel soluble manganese carbonyl compositions and one or more fuel soluble alkyl alkaline earth metals containing detergents. Wallace's composition, in addition, can contain a fuel soluble ashless dispersant, a fuel soluble demulsifying agent, an aliphatic or cycloaliphatic amine and a metal deactivator. In contrast, Applicants' fuel additive composition comprises a dispersant, a detergent and an antioxidant that form a gel. Wallace does not disclose or suggest Applicants fuel additive gel.

Furthermore, the 35 U.S.C. 102(b) reference should be withdrawn because Claim 1, as amended, contains the limitations of Claim 11 wherein the gel comprises the overbased detergent and ashless succinic dispersant at a specific ratio with a specific TNB number. This limitation is not taught by, nor obvious, nor suggested by the Wallace reference. Applicants fuel additive composition as claimed is novel and unobvious over the Wallace reference. Accordingly, the 35 U.S.C. 102(b) rejection should be withdrawn.

Claims 1 through 8, 5 through 8, 10 through 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Burrington et al, USPN 6843916. Applicants have provided a terminal disclaimer because the Burrington patent and Applicant's invention were commonly owned at the time of the invention by The Lubrizol Corporation. Accordingly, the rejection in view of Burrington under 35 U.S.C. 102(e), (f) or (g) and 35 U.S.C. 103 should be withdrawn.

Claims 1 and 14 through 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace in view of Burrington. The Examiner states that Wallace does not disclose a gel additive and Burrington does disclose a gel additive. Applicants respectfully traverse.

The Burrington reference cannot be used as a reference under 35 U.S.C. 103(a) as it was commonly assigned to The Lubrizol Corporation. Additionally, Applicants have added the limitations of Claims 2 and 10 into Claim 1 and thus the Claim limitations are not obvious from the Wallace reference. Furthermore, it is not obvious from the Wallace reference to use a gel additive as a fuel additive. Accordingly, 35 U.S.C. 103(a), reference should be withdrawn.

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over

Wallace in view of Orr. The references disclose an improved fuel composition, in contrast Applicants claim a gelled composition of fuel additives that can decrease the amount of soot in lubricating oil engines or decrease the amount of emissions in the engine exhaust. Accordingly, it would not be obvious to one skilled in the art to combine the Orr reference with the Wallace reference to develop the composition of Claim 3 which is a fuel borne catalyst included in the gel composition of Claim 1. Accordingly, the 35 U.S.C. 103(a) rejection of Claim 9 should be withdrawn.

The Examiner has provisionally rejected Claims 1 and 2 and 11 through 21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1 through 18 of copending Application No. 10/603,517.

Furthermore, the Examiner has rejected the same Claims 1 through 2 and 11 through 21 as directed to an invention not patentably distinct from Claims 1 through 18 of the commonly assigned copending Application, namely 10/603,517. The Assignee hereby states that the conflicting inventions were commonly owned at the time the invention was made and both are assigned to The Lubrizol Corporation. Accordingly, this rejection should be withdrawn.

Claims 1 through 21 have been provisionally rejected under the judicially created doctrine of obviousness-type double patented as being unpatentable over Claims 1 through 24 the copending Application No. 10/603,644. Additionally, Claims 1 through 21 are directed to an invention not patentably distinct from Claims 1 through 24 but commonly assigned copending Application, namely 10/603,644. Applicants hereby state that the patent application and their invention are commonly owned at the time of invention and the application was made. Thus this would preclude a rejection under 35 U.S.C. 103(a) based upon the commonly assigned case as a reference under 35 U.S.C. 102(f) or (g) or (e). Accordingly, this provisional rejection should be removed.

In summary, Applicants have shown their invention to be not only in full compliance with the requirements of 35 U.S.C.112, second paragraph, but have also shown that their invention is not anticipated by nor unobvious over the recited references. Accordingly, Applicants request Examiner to reconsider this position in view of this response and withdraw the rejections.

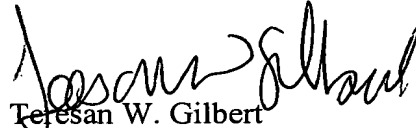
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authorized to charge those fees to The Lubrizol Corporation Deposit Account No. 12-2275. A duplicate copy of this document is enclosed for such purposes.

Respectfully submitted,

THE LUBRIZOL CORPORATION

A handwritten signature in dark ink, appearing to read "Teresan W. Gilbert", is written over the typed name.

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